

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE SEPTEMBER 1, 2011

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE JULY 1, 2011

AMENDED IN SENATE JUNE 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 418

Introduced by Assembly Member Ammiano

February 14, 2011

An act relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 418, as amended, Ammiano. Tidelands and submerged lands: City and County of San Francisco: Pier 70.

Existing law grants to the City and County of San Francisco the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust for certain purposes. Under existing law, the Burton Act, and the Burton Act transfer agreement, the interest of the state in and to the Harbor of San Francisco was transferred in trust to the City and County of San Francisco. The State Lands Commission has jurisdiction over tidelands and submerged lands of the state.

This bill would authorize the State Lands Commission to approve an exchange of trust lands within the Pier 70 area, as defined, subject to specified conditions. The bill would provide that lands exchanged out of the trust are free from the requirements of the public trust, the Burton Act trust, and the Burton Act transfer agreement, and lands to be

exchanged are subject to the requirements of the public trust, the Burton Act trust, and the Burton Act transfer agreement.

The bill would provide that the precise boundaries of the lands to be taken out of the trust and the lands to be put into the trust pursuant to the exchange shall be determined by the Port of San Francisco, subject to the approval of the commission. All lands exchanged into the public trust shall be held by the Port of San Francisco.

This bill would authorize the use or lease of historic buildings situated on trust lands for purposes not otherwise consistent with the public trust or the Burton Act trust if specified requirements are met.

This bill would make legislative findings and declarations as to the necessity of a special statute for Pier 70 in the City and County of San Francisco.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The following definitions apply for purposes of
- 2 this act:
- 3 (a) “AC34” means the 34th America’s Cup.
- 4 (b) “AC34 events” means the AC34 sailing regatta and related
- 5 events described in the host agreement.
- 6 (c) “AC34 match” means the final series of races between the
- 7 team representing the Golden Gate Yacht Club and the team
- 8 representing the challenger accepted by the Golden Gate Yacht
- 9 Club, the winner of which will hold the America’s Cup, and is
- 10 intended to have the same meaning as the term “match” as defined
- 11 in the host agreement.
- 12 (d) “Burton Act” means Chapter 1333 of the Statutes of 1968,
- 13 as amended.
- 14 (e) “Burton Act transfer agreement” means that certain
- 15 agreement dated January 24, 1969, between the state and the city,
- 16 relating to the transfer of the Port of San Francisco from the state
- 17 to the city, and any amendments to that agreement in accordance
- 18 with its terms.
- 19 (f) “Burton Act trust” means the statutory trust imposed by the
- 20 Burton Act, and any additional restrictions on use and alienability
- 21 created by the Burton Act transfer agreement.

1 (g) “City” means the City and County of San Francisco, a charter
2 city and county, and includes the port.

3 (h) “Commission” means the State Lands Commission.

4 (i) “Event Authority” means the America’s Cup Event Authority,
5 LLC.

6 (j) “Financial and land use plan” means a financial and land use
7 plan approved by the board of supervisors of the city under Section
8 B7.310 of the charter of the city after approval of any amendments
9 to the city’s general plan necessary to ensure that the financial and
10 land use plan conforms to the city’s general plan.

11 (k) “Harbor fund” means the separate fund in the treasury of
12 the city established and maintained in accordance with Section
13 B6.406 of the charter of the city and Section 4 of the Burton Act.

14 (l) “Historic buildings” means those buildings that have been
15 designated as, or meet the standards for, resources contributing to
16 the historic significance of the Pier 70 Historic District under
17 federal law.

18 (m) “Host agreement” means the Host and Venue Agreement
19 between the Event Authority and the city setting forth certain
20 conditions, including completion of environmental review under
21 the California Environmental Quality Act (Division 13
22 commencing with Section 21000) of the Public Resources Code),
23 under which the city will act as host city for AC34 events.

24 (n) “Lease” means a ground lease or space lease of real property,
25 license agreement for use of real property, temporary easement,
26 right-of-way agreement, development agreement, or any other
27 agreement granting to any person any right to use, occupy, or
28 improve real property under the jurisdiction of the port.

29 (o) “Master plan” means the Pier 70 Preferred Master Plan
30 published by the port in April 2010.

31 (p) “Other nontrust sources” means sources of funds for the
32 development of the Pier 70 area other than trust land revenues and
33 trust termination revenues, such as any of the following:

- 34 (1) Tax increment.
35 (2) General obligation bonds.
36 (3) Federal and state tax credits.
37 (4) The city’s general fund.
38 (5) Special taxes.
39 (6) Concessions granted by the city in accordance with city
40 ordinances.

1 (7) Grants.

2 (8) Other sources of funds.

3 (q) “Other port revenues” means revenues to the port generated
4 from port lands other than trust termination lands.

5 (r) “Person” means any private person, corporation, limited
6 liability company, partnership, joint venture, business entity,
7 business trust, association or other private organization or private
8 entity, or any governmental entity or agency.

9 (s) “Pier 70 area” means that certain real property situated in
10 the City and County of San Francisco and consisting of Assessor’s
11 Block 4111, portions of Assessor’s Blocks 3941, 4046, 4052, 4110
12 and 9900, portions of Twentieth Street, Michigan Street, and
13 Illinois Street, and portions of San Francisco Bay, more particularly
14 described as follows:

15 Commencing at the point of intersection of the northerly line of
16 Twentieth Street (66.00 feet wide) with the easterly line of Illinois
17 Street (80.00 feet wide), as said point is described on that certain
18 San Francisco Department of Public Works Monument Map No.
19 326, a copy of which is on file at the office of the Chief Harbor
20 Engineer of the San Francisco Port Commission; running thence
21 easterly along said northerly line at North 86° 49’ 20” East, 13.20
22 feet, to its intersection with the Von Leicht Pueblo Line of 1883,
23 the True Point of Beginning; thence along said Pueblo Line at
24 North 30° 25’ 08” West, 36.23 feet; thence continuing along said
25 Pueblo Line, North 07° 25’ 33” West, 106.09 feet; thence
26 continuing along said Pueblo Line, North 32° 40’ 12” West, 92.23
27 feet; thence continuing along said Pueblo Line, North 58° 40’ 13”
28 West, 28.32 feet, to the westerly line of Illinois Street; thence along
29 said westerly line of Illinois Street North 3° 10’ 40” West, 990.59
30 feet; thence North 86° 37’ 29” East, 373.53 feet, to a point along
31 the Mean High Tide Line of San Francisco Bay in the Central
32 Basin; thence running along said Mean High Tide Line, through
33 the following courses: South 1° 20’ 44” West, 7.76 feet; thence
34 South 1° 38’ 35” East, 11.26 feet; thence South 40° 13’ 42” East,
35 22.84 feet; thence North 84° 09’ 38” East, 9.64 feet; thence South
36 54° 03’ 28” East, 4.40 feet; thence South 66° 58’ 42” East, 14.04
37 feet; thence South 3° 58’ 56” West, 8.87 feet; thence South 40°
38 41’ 13” West, 10.59 feet; thence South 48° 18’ 22” West, 112.56
39 feet; thence South 65° 39’ 37” West, 31.48 feet; thence South 77°
40 53’ 28” West, 12.33 feet; thence South 83° 28’ 47” West, 30.12

1 feet; thence South 5° 25' 41" East, 34.27 feet; thence North 83°
2 49' 52" East, 69.07 feet; thence South 52° 29' 10" East, 63.13
3 feet; thence leaving the said Mean High Tide Line and running
4 along the existing fence line, North 38° 37' 07" East, 9.09 feet;
5 thence South 65° 12' 52" East, 23.30 feet; thence South 17° 35'
6 05" West, 4.22 feet; thence South 66° 47' 12" East, 36.94 feet;
7 thence South 54° 34' 59" East, 58.20 feet; thence North 86° 49'
8 20" East, 345.07 feet; thence South 3° 10' 40" East, 316.06 feet;
9 thence South 8° 17' 47" East, 70.21 feet; thence South 16° 44'
10 40" East, 13.46 feet; thence South 55° 28' 50" East, 119.49 feet;
11 thence North 86° 49' 20" East, 118.13 feet; thence South 3° 10'
12 40" East, 35.72 feet; thence North 86° 49' 20" East, approximately
13 130 feet, to the Mean High Tide Line of San Francisco Bay; thence
14 easterly, southeasterly, and southerly along said Mean High Tide
15 Line, to its intersection with a line drawn parallel with and distant
16 154.00 feet southerly from the southerly line of Twenty-Second
17 Street; thence westerly, along said parallel line, South 86° 49' 20"
18 West, approximately 1,080 feet, to a point distant 60.00 feet
19 northerly of the center line of Georgia Street, now closed, said
20 point being on the northeasterly boundary of Lot 7, as said lot is
21 shown and so designated on that certain Record of Survey filed
22 April 23, 2002, as Map T-74-94, Official Records of said City and
23 County; thence along said northeasterly boundary North 23° 55'
24 19" West 56.47 feet, more or less, to a point on the easterly line
25 of said Georgia Street, said point lying distant 101.20 feet southerly
26 of the southerly line of Twenty-Second Street; thence continuing
27 along said northeasterly boundary North 41° 30' 21" West, 129.27
28 feet, more or less, to the intersection of the southerly line of
29 Twenty-Second Street and the westerly line of said Georgia Street;
30 thence along said westerly line of Georgia Street, at North 3° 10'
31 40" West, 66.00 feet, to the northerly line of Twenty-Second Street;
32 thence North 86° 49' 20" East, along the northerly line of
33 Twenty-Second Street, 40.00 feet, to the center line of said Georgia
34 Street; thence North 3° 10' 40" West, along said center line of
35 Georgia Street, 269.96 feet; thence South 86° 49' 20" West, 240.00
36 feet, to the easterly line of Michigan Street; thence North 3° 10'
37 40" West, along the easterly line of Michigan Street, 347.34 feet,
38 to a point along said Von Leicht Pueblo Line of 1883; thence along
39 said Pueblo Line, at North 68° 29' 53" West, 52.52 feet; thence
40 continuing at North 44° 01' 43" West, along said Pueblo Line,

1 49.32 feet, to the westerly line of Michigan Street; thence South
2 $3^{\circ} 10' 40''$ East, along said westerly line of Michigan Street, 347.95
3 feet; thence South $86^{\circ} 49' 20''$ West, 200.00 feet, to the easterly
4 line of said Illinois Street; thence North $3^{\circ} 10' 40''$ West, along
5 said easterly line of Illinois Street, 537.00 feet to the southerly line
6 of Twentieth Street; thence North $86^{\circ} 49' 20''$ East, 50.49 feet, to
7 a point on said Von Leicht Pueblo Line of 1883; thence along said
8 Pueblo Line, at North $34^{\circ} 03' 04''$ West, 29.62 feet; thence
9 continuing along said Pueblo Line, at North $31^{\circ} 45' 00''$ West,
10 46.20 feet, to the True Point of Beginning; containing an area of
11 62.39 acres of land, more or less.

12 (t) "Port" means the Port of San Francisco, acting by and through
13 the San Francisco Port Commission.

14 (u) "Public trust" means the common law public trust for
15 commerce, navigation, and fisheries.

16 (v) "San Francisco waterfront" means those lands placed by the
17 city under the management, supervision, and control of the port.

18 (w) "Seawall lot 330" means that certain parcel of real property
19 situated in the City and County of San Francisco and more
20 particularly described as follows:

21 Commencing at the point of intersection of the northeasterly line
22 of Beale Street and the southeasterly line of Bryant Street, as said
23 point is described on that certain San Francisco Department of
24 Public Works Monument Map Number 318, with a copy on file
25 at the Office of the Engineers of the San Francisco Port
26 Commission; running thence northeasterly, along the southeasterly
27 line of Bryant Street, for a distance of 158.00 feet to the true point
28 of beginning; continuing thence along the southeasterly line of
29 Bryant Street, for a distance of 218.69 feet; thence along a curve
30 to the right, having a radius of 57.50 feet and a central angle of
31 $48^{\circ} 28' 22''$, to the realigned southeasterly line of Bryant Street;
32 thence along the said realigned southeasterly line of Bryant Street,
33 for a distance of 64.90 feet, to the westerly line of the Embarcadero;
34 thence southerly and running along the westerly line of the
35 Embarcadero, for a distance of 617.98 feet, to the northeasterly
36 line of Beale Street; thence at a deflection angle of $131^{\circ} 30' 38''$
37 to the right and running along the northeasterly line of Beale Street,
38 for a distance of 334.53 feet; thence at a right angle northeasterly,
39 running parallel to Bryant Street, for a distance of 158.00 feet;
40 thence at a right angle northwesterly, parallel to Beale Street, for

1 a distance of 143.00 feet, to the true point of beginning, containing
2 an area of 2.33 acres of land, more or less.

3 (x) “Secretary’s Standards” means the United States Secretary
4 of the Interior’s Standards for the Treatment of Historic Properties
5 with Guidelines for Preserving, Rehabilitating, Restoring and
6 Reconstructing Historic Buildings.

7 (y) “Senate Bill 815” means Chapter 660 of the Statutes of 2007,
8 as amended.

9 (z) “State” means the State of California.

10 (aa) “Team” means the Oracle Racing Team, successor to the
11 BMW Oracle Team, and its successors.

12 (ab) “Tidelands” means tide and submerged lands.

13 (ac) “Trust” means the public trust or the Burton Act trust, or
14 both, as appropriate in the context of its use.

15 (ad) “Trust land revenues” means revenues to the port generated
16 from the use or lease of port-owned lands, whether within or
17 outside of the Pier 70 area, other than trust termination lands.

18 (ae) “Trust lands” means all lands, including tidelands, within
19 the Pier 70 area that are presently subject to the trust. Following
20 a trust exchange, trust lands shall include all lands within the Pier
21 70 area that have been impressed with the trust by the exchange,
22 and shall not include any lands that have been removed from the
23 trust by the exchange.

24 (af) “Trust termination lands” means all lands within the Pier
25 70 area that will not be subject to the trust following a trust
26 exchange.

27 (ag) “Trust termination revenues” means revenues to the port
28 generated from the use, lease, or sale of the trust termination lands
29 following a trust exchange.

30 (ah) “Venue” means a site under port jurisdiction that is subject
31 to the public trust and that is proposed to be used for AC34 events.

32 (ai) “Waterfront land use plan” means the Port of San Francisco
33 Waterfront Land Use Plan, including the waterfront design and
34 access element, adopted by the port in 1997 under Resolution No.
35 97-50, as amended from time to time.

36 SEC. 2. The Legislature finds and declares all of the following:

37 (a) A purpose of this act is to facilitate the productive reuse of
38 the lands within the Pier 70 area of San Francisco in a manner that
39 furthers the purposes of the trust. To effectuate this purpose, this
40 act approves and authorizes the commission, subject to the

1 requirements of this act, to carry out an exchange of lands that will
2 place or confirm the public trust or the Burton Act trust on lands
3 within the Pier 70 area with substantial value for the trust, and
4 terminate the public trust and the Burton Act trust in Pier 70 area
5 lands that no longer are useful for trust purposes.

6 (b) The Pier 70 area is one of the most important intact maritime
7 industrial complexes west of the Mississippi. It is the oldest
8 continuously operating shipyard on the west coast. For over 150
9 years, some portion of the Pier 70 site has been in use for
10 shipbuilding and repair, steel production, and supporting heavy
11 industrial uses. With the arrival of the Union Iron Works in the
12 1880s, the site became a major national and international
13 shipbuilding center, launching, for example, the first steel-hulled
14 ship built on the Pacific Rim. The shipyard at Pier 70, later acquired
15 by the Bethlehem Steel Corporation, built both merchant ships and
16 warships, and was a major supplier for the United States Navy
17 during the Spanish-American War and both world wars. Its
18 development was a key step in the spread of industrialization to
19 the Pacific Coast.

20 (c) The Pier 70 area is within the jurisdiction of the port.
21 Preserving the Pier 70 area's historic resources is one of the port's
22 goals in its waterfront land use plan. In furtherance of that goal,
23 the port has prepared an application to list the Pier 70 area on the
24 National Register of Historic Places and is working with applicable
25 regulatory agencies to prepare a plan to remediate, if necessary,
26 any hazardous substances affecting the Pier 70 area. The master
27 plan incorporates historic preservation and remediating
28 environmental conditions as key objectives for development of
29 the Pier 70 area.

30 (d) The Pier 70 area includes lands that were historically
31 tidelands subject to the public trust as well as historic uplands that
32 were not subject to the public trust. Beginning in 1868, certain
33 Pier 70 area tidelands were conveyed into private ownership by
34 the state pursuant to various state statutes. Portions of those
35 tidelands were subsequently filled and reclaimed. The public trust
36 status of portions of the reclaimed tidelands within the Pier 70
37 area, as well as certain adjacent submerged lands, is uncertain.
38 Due to various historical circumstances, some of the reclaimed
39 tidelands, including lands located well inland from the current
40 shoreline, may have remained subject to the public trust, while

1 other lands, including reclaimed tidelands, lands along the
2 shoreline, and adjacent submerged lands, may have been freed
3 from the trust.

4 (e) The port acquired portions of the Pier 70 area lands,
5 including portions of the historic uplands, as part of the state's
6 grant to the city under the Burton Act. The port acquired the
7 remainder of the Pier 70 area lands from private owners.

8 (f) Absent a trust exchange, substantial portions of the lands
9 within the Pier 70 area that are located along the waterfront or are
10 otherwise of high value to the trust could be sold into private
11 ownership, cut off from public access, and used for purposes
12 inconsistent with the trust. In addition, certain interior lands not
13 useful for trust purposes would be restricted by the trust and could
14 not be used for nontrust uses essential to the revitalization of the
15 Pier 70 area.

16 (g) This act is necessary for the successful revitalization of the
17 Pier 70 area and to realize the resulting public benefits, including
18 continued operation of the existing ship repair yard on
19 approximately 15 acres of the Pier 70 area, the elimination of
20 blight, the remediation of hazardous substances, the establishment
21 of a Pier 70 National Register Historic District and adaptive reuse
22 of approximately 700,000 square feet of historic buildings, the
23 construction of approximately 3,000,000 square feet of new infill
24 development compatible with the historic district predominantly
25 for job-creating uses such as office and technology space, providing
26 some 6,000 to 8,000 new jobs, the creation of approximately 11
27 acres of waterfront open space and an additional nine acres of
28 internal open space, and increased public access to the waterfront.
29 This legislation is also needed to improve the configuration of the
30 trust lands in furtherance of trust purposes.

31 (h) A trust exchange pursuant to this act would result in the
32 configuration of trust lands that maximizes the overall benefits to
33 the trust, without interfering with trust uses or purposes by
34 impressing the entire waterfront within the Pier 70 area, as well
35 as certain interior lands that have high trust values, with the trust
36 and removing from the trust lands that have been cut off from
37 navigable waters, are no longer needed or required for the
38 promotion of the trust, and constitute a relatively small portion of
39 the granted lands within the city. This act requires the commission
40 to ensure that the lands added to the trust by the exchange have a

1 monetary value equal to or greater than the monetary value of the
2 lands taken out of the trust. This act also requires that the
3 commission ensure that the lands to be impressed with the trust
4 will provide a significant benefit to the trust compared to the lands
5 to be removed from the trust.

6 (i) The State Office of Historic Preservation has reviewed the
7 port's draft application for listing the Pier 70 area on the National
8 Register of Historic Places and the establishment of the Pier 70
9 Historic District, and has preliminarily concurred with the port's
10 conclusion that several buildings in the Pier 70 area are contributors
11 to the proposed historic district. These historic buildings are located
12 throughout the Pier 70 area. They convey a sense of the Pier 70
13 area's early maritime industrial history and enhance the open-space
14 experience in the corridor leading to the waterfront, but are in
15 seriously dilapidated condition. These maritime-related historic
16 buildings are resources of statewide importance, and their
17 preservation and restoration benefits the statewide public and
18 furthers trust purposes by providing maritime-related education
19 about the historic resources and their contribution to the maritime
20 industry, and providing public access to view the historic
21 architectural amenities. This act authorizes uses of historic
22 buildings located on trust lands that support preservation and
23 restoration of the buildings, maritime-related education, and public
24 access to view these historic resources, including uses that would
25 not otherwise be consistent with the trust, subject to the
26 requirements of this act. This act also provides that historic
27 buildings situated on trust termination lands, for so long as the
28 buildings remain in port ownership and retain their integrity as
29 historic resources, should continue to be managed by the port as
30 trust assets and historic resources of statewide importance
31 providing maritime-related education and public access.

32 (j) The successful development and revitalization of the Pier 70
33 area requires that land use planning, infrastructure development,
34 and management and control of the site as a whole be integrated.
35 Both the trust lands and trust termination lands within the Pier 70
36 area will be served by common streets, utilities, and other
37 infrastructure and public facilities that will need to be constructed
38 or improved as part of the development of the Pier 70 area.
39 Preserving the historic district will similarly require investment in
40 buildings on both trust lands and trust termination lands. In

1 addition, the port anticipates substantial investment in the trust
2 lands from nontrust sources, including lease revenues from the
3 trust termination lands, infrastructure financing district tax
4 increment funds, and park improvements funded by city general
5 obligation bonds. In light of these unique circumstances, it is in
6 the best interest of the state and the trust to allow the port to
7 continue to hold and manage the trust termination lands as an asset
8 of the trust, free of public trust and Burton Act trust use restrictions;
9 to require that all revenues or other proceeds generated by the port
10 from the trust termination lands be deposited in the harbor fund;
11 and to permit the use of harbor fund moneys on the trust
12 termination lands to enhance the value to the trust of the trust asset,
13 subject to the limitations set forth in this act.

14 (k) The port has provided commission staff with a preliminary
15 forecast of the projected costs and revenues associated with the
16 development of the Pier 70 area, which shows that the projected
17 trust termination revenues and funds from other nontrust sources,
18 such as tax increment, general obligation bonds, tax credits, the
19 city's general fund, and special taxes, are expected to exceed by
20 over \$300 million the projected costs of rehabilitating the historic
21 buildings and constructing infrastructure and other public facilities
22 located on the trust termination lands, thereby providing a
23 substantial benefit to the trust.

24 SEC. 3. (a) The commission is authorized to approve an
25 exchange of trust lands within the Pier 70 area that meets the
26 requirements of this act.

27 (b) The commission may not approve the exchange of the trust
28 lands unless it finds all of the following:

29 (1) The portions of the trust lands or interests in lands to be
30 exchanged out of the trust have been filled and reclaimed, are cut
31 off from access to the waters of the San Francisco Bay, and are no
32 longer in fact tidelands or navigable waterways, are relatively
33 useless for public trust purposes, and constitute a relatively small
34 portion of the granted lands within the city.

35 (2) The lands or interests in lands to be impressed with the trust
36 have a monetary value equal to or greater than the monetary value
37 of the lands or interests in lands to be exchanged out of the trust.
38 If the lands or interests in lands to be exchanged into the trust are
39 insufficient to meet the requirement of equal or greater monetary
40 value, the commission may consider a deposit of funds into the

1 Land Bank Fund established pursuant to Section 8610 of the Public
2 Resources Code to be held solely for acquisition of property, in
3 an amount at least equal to the difference in value, for purposes
4 of making the finding required by this paragraph.

5 (3) No substantial interference with trust uses and purposes,
6 including public rights of navigation and fishing, will ensue by
7 virtue of the exchange.

8 (4) The lands or interests in lands impressed with the trust will
9 provide a significant benefit to the trust and are useful for the
10 particular trust purposes authorized by this act.

11 (5) The configuration of trust lands within the Pier 70 area, upon
12 completion of the exchange, consists solely of lands suitable to be
13 impressed with the trust.

14 (6) The appropriate state agencies have approved an
15 environmental site investigation and risk assessment of the Pier
16 70 area, and agree on subsequent actions and development
17 standards needed to ensure appropriate management of potential
18 risks through development of a risk management plan, a remedial
19 action plan, or comparable regulatory documents specific to the
20 conditions at the Pier 70 area; the port has provided adequate
21 financial assurances to ensure performance of any affirmative
22 remedial actions required by any such plan or comparable
23 regulatory document; and sufficient liability measures that protect
24 the state will be in place upon completion of the exchange.

25 (7) The final layout of streets in the Pier 70 area shall provide
26 access to the trust lands and be consistent with the beneficial use
27 of the trust lands.

28 (8) Streets and other transportation facilities located on trust
29 lands shall be designed to be compatible with the trust and to serve
30 primarily trust purposes of access to shoreline improvements and
31 shoreline circulation rather than serving nontrust purposes.

32 (9) The San Francisco Port Commission and the city's board of
33 supervisors have approved the exchange after at least one public
34 hearing and have found, based on supporting documentation, that
35 the lands or interests in lands impressed with the trust will provide
36 a significant benefit to the trust and are useful for the trust purposes
37 authorized by this act.

38 (10) Any surveys or legal descriptions required for the parcels
39 in conjunction with the exchange shall be approved by the
40 commission or its executive officer.

1 (11) The exchange otherwise complies with the requirements
2 of this act.

3 (12) The exchange is consistent with and furthers the purpose
4 of the public trust, the Burton Act trust, and this act.

5 (13) The exchange is otherwise in the best interest of the
6 statewide public.

7 (c) The commission may impose additional conditions on the
8 exchange authorized by this act if the commission determines that
9 the conditions are necessary to protect the public trust. The
10 conditions may include a requirement that, following the
11 completion of remediation of submerged lands immediately
12 adjacent to the Pier 70 area, or at a time that the commission
13 determines is in the best interest of the state, the port and
14 commission shall reasonably cooperate in taking all necessary
15 actions to impress or confirm the public trust and the Burton Act
16 trust on those submerged lands or portions of the lands.

17 (d) For purposes of effectuating the exchange authorized by this
18 section, the commission is authorized to do all of the following:

19 (1) Receive and accept on behalf of the state any lands or interest
20 in lands conveyed to the state by the parties to the exchange
21 agreement, including lands that are now and will remain subject
22 to the public trust and the Burton Act trust.

23 (2) Convey by patent all of the right, title, and interest of the
24 state in lands that are to be free of the public trust upon completion
25 of an exchange of lands as authorized by this act and as approved
26 by the commission.

27 (3) Convey to the city by patent all of the right, title, and interest
28 of the state in lands that are to be subject to the public trust and
29 the Burton Act trust upon completion of an exchange of lands as
30 authorized by this act and as approved by the commission, subject
31 to the terms, conditions, and reservations as the commission may
32 determine are necessary to meet the requirements of this act.

33 (e) The exchange authorized by this section may include lands
34 outside of the Pier 70 area to the extent consistent with the purposes
35 of this act and approved by the commission. Lands outside the
36 Pier 70 area that are impressed with the public trust and the Burton
37 Act trust as part of an exchange authorized by this act shall be
38 deemed trust lands for purposes of this act.

1 (f) This act does not condition or otherwise limit the authority
2 of the state or the city to undertake a trust exchange or other
3 conveyance authorized by any other law.

4 SEC. 4. The precise boundaries of the lands to be taken out of
5 the trust and the lands to be put into the trust pursuant to the
6 exchange shall be determined by the port at a duly noticed public
7 hearing, subject to the approval of the commission. The
8 commission is authorized to settle by agreement with the port any
9 disputes as to the location of the mean high tide line in its last
10 natural state, the boundaries of tidelands conveyed into private
11 ownership pursuant to various statutes, and any other boundary
12 lines that the commission deems necessary to effectuate the
13 exchange.

14 SEC. 5. All lands exchanged into the trust under this act shall
15 be held by the port subject to the public trust and the Burton Act
16 trust, and all lands exchanged out of the trust under this section
17 shall be free of the public trust and the Burton Act trust.

18 SEC. 6. (a) For so long as the port holds title to the trust
19 termination lands, those lands shall be held as assets of the public
20 trust, free of any public trust or Burton Act trust use or alienation
21 restrictions, but subject to the requirements of this section.

22 (b) The port may hold, use, conduct, operate, maintain, manage,
23 administer, regulate, improve, sell, lease, encumber, and control
24 the trust termination lands and any buildings and improvements
25 on the lands, for any purpose, whether or not consistent with the
26 trust, subject to the requirements of this section.

27 (c) Any trust termination revenues shall be deposited in the
28 harbor fund.

29 (d) The port shall receive fair market value for the lease or sale
30 of any trust termination lands or interest in the lands.

31 (e) The port may expend moneys in the harbor fund in
32 connection with the trust termination lands for the following limited
33 purposes:

34 (1) The operation, maintenance, management, and administration
35 of those trust termination lands under port ownership and any
36 buildings, structures, or improvements on the lands, provided,
37 however, that any lease by the port of trust termination lands with
38 a term of 30 or more years requires the port's lessee to undertake
39 the operation, maintenance, management, and administration of
40 the lease premises.

1 (2) The preservation, rehabilitation, restoration, or reconstruction
2 of any historic building on trust termination lands in a manner
3 consistent with the Secretary's Standards, for so long as the
4 building remains in port ownership.

5 (3) Securing or servicing bond or other indebtedness incurred
6 for the improvement or construction of streets, utilities, or other
7 infrastructure or public facilities that serve the Pier 70 area and
8 are located on trust termination lands or on lands immediately
9 adjacent to the Pier 70 area. To pay any such indebtedness, the
10 port shall use all available trust termination revenues and funds
11 from other nontrust sources before using trust land revenues.

12 (4) Planning, investigation, design, administrative review, and
13 entitlement work associated with the development of the Pier 70
14 area.

15 (f) The port shall provide, in addition to any statement of
16 expenditures and revenues that it is required by law to submit to
17 the commission, a separate accounting of all trust termination
18 revenues and other port revenues spent on the trust termination
19 lands.

20 (g) At least 30 days before submitting a financial and land use
21 plan to the board of supervisors of the city for approval, the port
22 shall consult with commission staff and provide staff with an
23 updated analysis of the projected costs and revenues associated
24 with the development of the Pier 70 area. The updated analysis
25 shall include an estimate of the historic rehabilitation,
26 infrastructure, or other costs associated with trust termination lands
27 that could be financed with trust land revenues under subdivision
28 (e), and a projection of the trust termination revenues and funds
29 from other nontrust sources that will be generated by the project,
30 together with supporting documentation. If the projected trust
31 termination revenues and funds from other nontrust sources do not
32 exceed the projected expenditure of trust land revenues on trust
33 termination lands, the port may not use trust land revenues to secure
34 any indebtedness as otherwise authorized in paragraph (3) of
35 subdivision (e).

36 (h) No later than the earlier of 35 years from the date of the first
37 expenditure of other port revenues on trust termination lands, or
38 final payment of the initial issuance of debt pursuant to paragraph
39 (3) of subdivision (e), the port shall report to the commission the
40 amount of other port revenues spent on the trust termination lands

1 and the benefit to the trust derived from trust termination revenues
2 and other nontrust sources. If the amount of other port revenues
3 spent on trust termination lands exceeds the benefit to the trust
4 from trust termination revenues and other nontrust sources, the
5 commission, following consultation with the port, may require the
6 port to take actions to remedy the shortfall as may be in the best
7 interest of the state, which actions may include, without limitation,
8 sale of some or all of the trust termination lands and pursuit of
9 refinancing options to reduce or eliminate potential liabilities to
10 the harbor fund.

11 (i) At the commission's request, the port shall submit to the
12 commission a report containing a general description of the uses
13 to which the trust lands have been placed or are proposed to be
14 placed during the period covered by the report.

15 SEC. 7. (a) Historic buildings situated on trust lands may be
16 used or leased for purposes that are not otherwise consistent with
17 the public trust or the Burton Act trust if all of the following
18 conditions are met:

19 (1) The buildings are rehabilitated consistent with the Secretary's
20 Standards.

21 (2) The uses or leases provide for public access to view the
22 interior and exterior historic architectural amenities and other
23 amenities that educate the public about the historic buildings and
24 their contribution to the maritime history of Pier 70.

25 (3) The executive officer of the commission makes a written
26 finding that trust uses available could not feasibly provide sufficient
27 funds for the restoration and preservation of the building and that
28 the uses or leases are part of an overall program that furthers trust
29 purposes.

30 (b) If a building described in subdivision (a) is used for a
31 nontrust purpose, and is remodeled, renovated, or used in a manner
32 that is inconsistent with the Secretary's Standards, the building
33 shall be put to a trust use from the commencement of the
34 inconsistent remodel, renovation, or use, unless the continued
35 nontrust use is otherwise authorized under the Burton Act.

36 (c) If a building described in subdivision (a) is demolished,
37 subsequent use of the land and any replacement structure shall be
38 consistent with the public trust and the Burton Act trust.

1 (d) Notwithstanding subdivisions (a), (b), and (c), this section
2 does not limit the port's authority under Section 3 of the Burton
3 Act.

4 SEC. 8. The Legislature further finds and declares all of the
5 following:

6 (a) Another purpose of this act is to facilitate the port's
7 implementation of its waterfront land use plan, its capital plan,
8 and the host agreement, subject to required environmental review.

9 (b) The San Francisco waterfront is a valuable public trust asset
10 of the state that provides special maritime, navigational,
11 water-related recreational, habitat, open-space, cultural, and
12 historical benefits to the people of the region and the state. Deferred
13 maintenance since 1969 has caused deteriorating conditions along
14 the San Francisco waterfront, which has limited the port's ability
15 to fully implement its waterfront land use plan.

16 (c) Pursuant to the San Francisco Administrative Code, the port
17 has developed a capital plan identifying projects necessary and
18 convenient to the improvement, operation, and conduct of the
19 city's waterfront. Projects in the capital plan include the following:

20 (1) Seismic and life-safety improvements to existing buildings
21 and other structures.

22 (2) Rehabilitation, restoration, and preservation of certain
23 historic piers and other historic structures.

24 (3) Structural repairs and improvements to piers, seawalls, and
25 wharves.

26 (4) Remediation of hazardous materials.

27 (5) Stormwater management facilities.

28 (6) Other utility infrastructure.

29 (7) Public access improvements, including improvements within
30 and around the pier sheds and the construction of waterfront plazas
31 and open space.

32 (d) The estimated cost to implement the port's capital plan is
33 approximately \$2.17 billion in 2011 dollars. This amount
34 substantially exceeds the projected revenues of the port available
35 for these purposes.

36 (e) Providing additional mechanisms to finance capital
37 improvements to the port's facilities in furtherance of the capital
38 plan and waterfront land use plan is a matter of statewide
39 importance that will further the purposes of both the public trust
40 and the Burton Act trust.

(f) In February 2010, the BMW Oracle racing team, sailing under the burgee of the Golden Gate Yacht Club, won the 33rd America's Cup off the coast of Valencia, Spain. The America's Cup, which was first awarded in 1851, is the oldest sporting trophy in sailing history. On December 31, 2010, the team designated the city to host the AC34 events. The team has designated as the potential venue for AC34 the San Francisco waterfront area generally between the Golden Gate Bridge to the north and Pier 80 to the south. The team anticipates holding the AC34 match in the San Francisco Bay in 2013, with preliminary races worldwide beginning in 2011 and in the San Francisco Bay in 2012. The city is conducting environmental review of the AC34 match, pre-regattas, and related activities.

(g) An economic impact study by the Bay Area Council's Economic Institute and Beacon Economics released in July 2010 concludes that hosting AC34 on the San Francisco Bay would generate nearly 9,000 jobs and \$1.4 billion in direct spending in the San Francisco Bay area and California, and nearly \$1.9 billion nationwide. The study reports that the America's Cup is the world's third largest sporting competition after the Olympics and soccer's World Cup.

(h) Under the host agreement, the city has agreed to provide the team with venues for regattas, team and competitor facilities, sponsorship activities, spectator viewing, and ancillary activities, subject to completion of environmental review and review and approval of the planned facilities for the event. The venues are likely to be located on water areas, piers and wharves, and waterfront and landside property under port jurisdiction, generally from the Golden Gate Bridge to Pier 80. If the AC34 project is approved by the city, the Event Authority will make capital improvements to certain venues, subject to the port's approval and permits issued by various local and state agencies, which will correct deteriorated facility conditions and increase public access to, and use and enjoyment of, trust lands.

(i) In Senate Bill 815, the Legislature found that certain lands within port jurisdiction, including seawall lot 330, have become separated from the San Francisco Bay by the Embarcadero roadway, were further cut off from the water by light rail tracks that were constructed in the median of the roadway, have ceased to be useful for the promotion of the public trust and the Burton

1 Act trust except for the production of revenue to support the
2 purposes of the Burton Act trust, are leased on an interim basis for
3 commuter parking or are vacant land, and constitute in the
4 aggregate approximately 4 percent of the lands granted to the city
5 under the Burton Act, not including lands currently subject to tidal
6 action.

7 (j) Based on those findings, the Legislature concluded, inter
8 alia, that seawall lot 330 was filled and reclaimed as part of a highly
9 beneficial plan of harbor development, has ceased to be tidelands,
10 constitutes a relatively small portion of the tidelands granted to
11 the city, and is not necessary for public trust or Burton Act trust
12 purposes. Accordingly, the Legislature freed seawall lot 330 from
13 the use requirements of the public trust and the Burton Act trust
14 through the year 2094. The Legislature further authorized the port
15 to enter into nontrust leases for seawall lot 330 for periods of up
16 to 75 years.

17 (k) The host agreement provides that if the AC34 project is
18 approved, in consideration of the Event Authority's capital
19 investment in port facilities, the port will offer the Event Authority
20 certain long-term development rights on port lands equal in value
21 to the Event Authority's investment in the venues. The long-term
22 development rights include the sale of seawall lot 330, following
23 the removal of that parcel from the public trust. The host agreement
24 further provides that the sale of seawall lot 330 be for fair market
25 value, to be determined based on a prescribed appraisal process
26 and indexed annually at 3 percent until title is transferred.

27 (l) Subject to the conditions of subdivision (d) of Section 9 of
28 this act, the Legislature hereby finds and declares that, based on
29 the findings made in this act and the findings previously made in
30 Senate Bill 815, all of the conditions for terminating the public
31 trust as set forth by the California Supreme Court in *City of Long*
32 *Beach v. Mansell* (1970) 3 Cal.3d 462 have been met as to seawall
33 lot 330. The Legislature further finds and declares that seawall lot
34 330 is not needed for any trust use for the foreseeable future, that
35 the residual value to the trust of reserving seawall lot 330 for trust
36 uses after the year 2094 is minimal, and that allowing the port to
37 obtain a major investment in waterfront improvements to address
38 its critical capital needs through the sale of seawall lot 330 would
39 provide substantially greater benefit to the trust. The Legislature
40 further finds and declares that placing the trust on lands not

1 currently subject to the trust that are situated on or adjacent to the
2 San Francisco Bay in the manner required by this act would provide
3 substantially greater benefit to the trust than would reserving
4 seawall lot 330 for trust uses after the year 2094, provided that the
5 conditions in Section 9 of this act are met.

6 SEC. 9. (a) Based on the findings in Section 8 of this act and
7 subject to subdivision (d) of this section, the Legislature hereby
8 declares seawall lot 330 to be free of the public trust and the Burton
9 Act trust in perpetuity, and further declares that seawall lot 330
10 has ceased to be tidelands for purposes of Section 3 of Article X
11 of the California Constitution.

12 (b) Subject to subdivision (d), all of the state's right, title, and
13 interest in seawall lot 330 is hereby granted, free of the public trust
14 and the Burton Act trust, to the port. The port shall hold seawall
15 lot 330 as an asset of the trust, free of any public trust, Burton Act
16 trust, or Senate Bill 815 use or alienation restrictions, but subject
17 to the requirement that all revenues or other proceeds generated
18 on seawall lot 330 be deposited in the harbor fund and used for
19 trust purposes.

20 (c) (1) The port may, on behalf of the state, convey the fee ~~any~~
21 interest in seawall lot 330 to any person free of the public trust,
22 the Burton Act trust, and the restrictions of Senate Bill 815, if the
23 consideration received by the port is equal to or greater than the
24 fair market value of the fee interest conveyed and is used by the
25 port for trust purposes.

26 (2) The consideration received by the port, or any portion of
27 the consideration, for the conveyance of the fee interest in seawall
28 lot 330 may be in the form of improvements to a venue or to other
29 property within the port's jurisdiction and subject to the trust, if,
30 prior to the conveyance, the commission has found that either the
31 improvement work has been completed or the conveyee has secured
32 the cost of completing the work by a performance bond, cash
33 deposit, letter of credit, promissory note secured by a deed of trust
34 on the property, or comparable security.

35 (3) A conveyance of the fee interest in seawall lot 330 in
36 accordance with the terms of the host agreement as it existed on
37 its effective date, and based on the fair market value of seawall lot
38 330 as determined by the port pursuant to the host agreement, if
39 made prior to September 30, 2012, shall be deemed to satisfy the
40 requirements of this section, provided that prior to any conveyance

1 of the fee interest in seawall lot 330, the commission shall review
2 the appraisals used by the port in determining the fair market value
3 of the fee interest in seawall lot 330 for conformance with the
4 Uniform Standards of Professional Appraisal Practice and approve
5 the valuation methodologies used in the appraisals. If the
6 conveyance of the fee interest in seawall lot 330 does not occur
7 by September 30, 2012, the port's appraisal and determination of
8 the fair market value of the fee interest in seawall lot 330 shall be
9 subject to further review and approval by the commission.

10 (4) If the port elects to convey the fee interest in seawall lot
11 330, the port shall cause the trust to be impressed upon other lands
12 situated on or adjacent to the San Francisco Bay that have a total
13 area equal to or greater than the area of seawall lot 330 and have
14 been determined by the commission to be useful for trust purposes.
15 The lands to be impressed with the trust shall be identified by the
16 port and approved by the commission prior to the conveyance of
17 the fee interest in seawall lot 330, and the port shall cause the trust
18 to be impressed upon those lands within a reasonable period of
19 time thereafter, as determined by the commission. Prior to
20 consideration by the commission, the port shall hold at least one
21 public hearing and shall make a finding, based on supporting
22 documentation, that the lands to be impressed with the trust have
23 a total area equal to or greater than the area of seawall lot 330, and
24 that the lands to be impressed with the trust are useful for trust
25 purposes.

26 (d) (1) If the AC34 match has not been held in the city, as
27 contemplated by the host agreement, by December 31, 2013, or
28 such later date as may be approved in writing by the commission,
29 the termination of the trust in seawall lot 330 under this section
30 shall be rescinded, and seawall lot 330 shall be subject to the public
31 trust, the Burton Act trust, and Senate Bill 815.

32 (2) In any agreement authorized by this section for the
33 conveyance of the fee interest in seawall lot 330, and in any deed
34 effectuating such conveyance, the port shall reserve the power to
35 terminate the right, title, and interest of the fee owner in the
36 property, and to reenter and repossess seawall lot 330, as trustee,
37 if the trust termination on seawall lot 330 is rescinded pursuant to
38 this subdivision.

39 (3) If the port exercises its reserved power to terminate the
40 conveyance of the fee interest in seawall lot 330 under this

1 subdivision, and the port has agreed to reimburse the holder of the
2 fee interest in such event, the port may provide such reimbursement
3 in any form the port deems appropriate, which may include rent
4 credits for a lease of seawall lot 330 consistent with subdivision
5 (e); but in no event shall such reimbursement exceed the value of
6 the consideration that the port received for the conveyance of the
7 fee interest in seawall lot 330 in accordance with subdivision (c).

8 (e) (1) Notwithstanding anything to the contrary in this section,
9 the port may lease seawall lot 330 to any person, free of the public
10 trust, the Burton Act trust, and the restrictions of Senate Bill 815
11 if all of the following conditions are met:

12 (A) The term of the lease does not exceed 75 years.

13 (B) The consideration received by the port is equal to or greater
14 than the fair market value of the fee interest conveyed as
15 determined by the port.

16 (C) The consideration is used by the port for trust purposes.

17 (D) The lease provides that, at the sole discretion of the port,
18 any improvements on seawall lot 330 made by the lessee shall
19 become the property of the port upon termination of the lease
20 without any additional consideration to the lessee.

21 (2) Consideration to the port for the lease may be in the form
22 of improvements to a venue or to other property within the port's
23 jurisdiction in accordance with the host agreement. If the trust
24 termination on seawall lot 330 is rescinded pursuant to subdivision
25 (d), any lease that the port grants for seawall lot 330 after the date
26 of rescission shall be consistent with Senate Bill 815, except that
27 paragraph (1) of subdivision (b) of Section 4 of Senate Bill 815
28 shall be deemed satisfied if the consideration for the lease is in the
29 form of improvements to port property in accordance with the host
30 agreement. If the trust rescission occurs after the port has entered
31 into a lease for seawall lot 330, the port shall have no obligation
32 under Section 7 of Senate Bill 815 to remove structures, buildings,
33 or appurtenances made to seawall lot 330 in accordance with such
34 lease.

35 (f) Except as specifically provided in subdivisions (d) and (e),
36 this section supersedes the requirements of the Burton Act and
37 Senate Bill 815 to the extent that those requirements apply to
38 seawall lot 330.

39 SEC. 10. This act advances the statewide purpose of the public
40 trust and is in the best interests of the people of this state. An

1 agreement for the sale, lease, or exchange of port property or other
2 agreement made under this act is hereby found to be of statewide
3 significance and importance. Therefore, an ordinance, charter
4 provision, or other provision of local law that is inconsistent with
5 this act does not apply to that sale, lease, exchange, or other
6 agreement.

7 SEC. 11. A deed, patent, agreement, or other instrument
8 executed in furtherance of this act, or an action of the state or port
9 to approve the use, lease, or conveyance of a state or port property
10 subject to this act, or any portion of that property, or to approve
11 project agreements, grant entitlements, or permits, or issue bonds
12 or other indebtedness in connection with the use and development
13 of that property, shall be conclusively presumed to be valid unless
14 held to be invalid in an appropriate proceeding in a court of
15 competent jurisdiction to determine the validity of the agreement
16 commenced within 60 days after the recording of the agreement.

17 SEC. 12. (a) An action may be brought under Chapter 4
18 (commencing with Section 760.010) of Title 10 of Part 2 of the
19 Code of Civil Procedure to establish title to any lands conveyed
20 pursuant to this act or by the parties to any agreement entered into
21 pursuant to this act to confirm the validity of the agreement.
22 Notwithstanding Section 764.080 of the Code of Civil Procedure,
23 the statement of decision in the action shall include a recitation of
24 the underlying facts and a determination as to whether the
25 conveyance or agreement meets the requirements of this act,
26 Sections 3 and 4 of Article X of the California Constitution, if
27 applicable, and any other law applicable to the validity of the
28 agreement.

29 (b) For purposes of Section 764.080 of the Code of Civil
30 Procedure and unless otherwise agreed in writing, an agreement
31 entered into pursuant to this act shall be deemed to be entered into
32 on the date it is executed by the executive officer of the
33 commission, who shall be the last of the parties to sign prior to the
34 signature of the Governor. The effective date of the agreement
35 shall be deemed to be the date on which it is executed by the
36 Governor pursuant to Section 6107 of the Public Resources Code.

37 (c) An action may be brought under Chapter 9 (commencing
38 with Section 860) of Title 10 of Part 2 of the Code of Civil
39 Procedure to determine the legality and validity of a deed, patent,
40 agreement, or other instrument executed in furtherance of or

1 authorized by this act, or an action of the port to use, lease, or
2 convey any property, or to approve project agreements, grant
3 entitlements or permits, or issue bonds or other indebtedness in
4 connection with the use and development of that property. Prior
5 to the filing of an action, the Attorney General and the executive
6 officer of the commission shall be provided written notice of the
7 action and a copy of the complaint. An action authorized by this
8 subdivision may be combined with an action authorized by
9 subdivision (a).

10 SEC. 13. If a provision of this act, or its application to a person,
11 property, or circumstance, is held invalid by a court, the invalidity
12 or inapplicability of that provision shall not affect any other
13 provision of this act or the application of that provision to any
14 other person, property, or circumstance, and the remaining portions
15 of this act shall continue in full force and effect, unless enforcement
16 of this act as so modified by and in response to that invalidation
17 would be grossly inequitable under all of the circumstances, or
18 would frustrate the fundamental purposes of this act.

19 SEC. 14. Except as expressly provided herein, this act prevails
20 over any inconsistent provisions of the Burton Act or the Burton
21 Act transfer agreement.

22 SEC. 15. The reasonable costs of any study or investigation
23 undertaken by or at the direction of the commission or commission
24 staff that is necessary to implement this act, including reasonable
25 reimbursement for time incurred by commission staff in processing,
26 investigating, and analyzing any information submitted pursuant
27 to this act, shall be borne by the port or the city according to a
28 budget to be agreed upon by commission staff and the port or the
29 city before any such study or investigation is begun.

30 SEC. 16. The Legislature finds and declares that a special law
31 is necessary and that a general law cannot be made applicable
32 within the meaning of Section 16 of Article IV of the California
33 Constitution because of the unique circumstances applicable only
34 to the lands described in this act.